

IAP12 Rec'd PCT/PTO 01 APR 2008

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Docket No.: 073678-0026

PATENT

APR 01 2008

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Customer Number: 31824

Christopher Robert BEBBINGTON, et al

Confirmation Number: 9929

Serial No.: 10/585,149

Group Art Unit: Not Yet Assigned

Filed: June 30, 2006

Examiner: Not Yet Assigned

For: TRANSACTIVATION SYSTEM FOR MAMMALIAN CELLS

CERTIFICATE OF TRANSMISSION (UNDER 37 CFR 1.8(a)(1))

I hereby certify that on April 1, 2008, this document and all listed attachments are being transmitted via facsimile to (571) 273-8300, Attn: Mail Stop Petition, known to me to be the USPTO Patent Central FAX Number, at Commissioner for Patents, Alexandria, VA 22313-1450.

  
PATRICIA A. BALERO
PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the NOTIFICATION OF ABANDONMENT dated March 27, 2008, Applicants hereby request that the Notification of Abandonment be withdrawn and that prosecution for the application be reopened. (See Manual of Patent Examination Procedure § 711.04(c) (2007).) Although Applicants believe that no fee is necessary, the Commissioner is authorized to charge Deposit Account No. 502203 in the amount of \$130.00 to cover the Petition fee.

The Patent Office issued the Notification of Abandonment on the grounds that the Applicants had failed to respond to a Notification of Missing Requirements within the statutory period of two (2) months from the mailing date of March 26, 2007. (See Notification of Abandonment, Exhibit 1.)

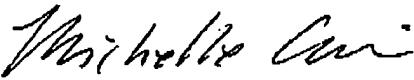
Serial No.: 10/585,149

The Applicants' attorney has conducted a search of the internal docket for this application and has found no record that the Notification of Missing Requirements was received from the Patent Office. (See Remarks, Internal Record from Docket No. 073678-0026, Exhibit 2.) Moreover, the Patent Office's records available through the Patent Application Information Retrieval (PAIR) system corroborate counsel's internal record. (See PAIR Record for Application No. 10/585,149, Exhibit 3.) The PAIR record does not show a Notification of Missing Requirements in March 2007, or thereafter. Further, the PAIR record indicates that, since March 2007, the Applicant has made several filings with the Patent Office, including two Information Disclosure Statements, one on May 22, 2007 and another on November 2, 2007, and a Request for Status of Application on February 28, 2008. The Applicants' subsequent submissions and request are additional proof that the Applicants never received the Notification of Missing Requirements and never intended to abandon the application.

The Applicants submit that they did not receive the Notification of Missing Requirements, and as such, the Applicants respectfully request that the Notification of Abandonment be withdrawn and that the fee for this Petition be waived.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Michelle Z. Cai  
Registration No. 50,599

Please recognize our Customer No. 31824  
as our correspondence address.

3150 Porter Drive  
Palo Alto, CA 94304  
Phone: 650-813-5000  
Facsimile: 650-813-5100  
Date: April 1, 2008

MPK 140269-1.073678.0026

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**Date:** April 1, 2008

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| Mail Stop Petition         | U.S. Patent and Trademark Office | 1.571.273.8300                           |                      |
| <b>From:</b>               | Michelle Z. Cai                  | <i>Direct Phone:</i>                     | 650.813.5052         |
| <i>E-Mail:</i>             | mcai@mwe.com                     | <i>Direct Fax:</i>                       | 650.813.5100         |
| <i>Sent By:</i>            | Patricia A. Balero               | <i>Direct Phone:</i>                     | 650.813.4608         |
| <i>Client/Matter/Tkpr:</i> | 073678-0026/09341                | <i>Original to Follow by Mail:</i>       | No                   |
|                            |                                  | <i>Number of Pages, Including Cover:</i> | 11                   |

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U.S. practice conducted through McDermott Will & Emery LLP  
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PAGE 1/11 \* RCVD AT 4/1/2008 7:17:58 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/0 \* DNIS:2738300 \* CSID: \* DURATION (mm:ss):02:16

# EXHIBIT

# 1

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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|  |   |   |
|--|---|---|
| U.S. APPLICATION NUMBER NO.  | FIRST NAMED APPLICANT                           | ATTY. DCKET NO.   |
| 10/585,149   | Christopher Robert Bebbington                   | 073678-0026   |
| 31824<br>MCDERMOTT WILL & EMERY LLP<br>18191 VON KARMAN AVE.<br>SUITE 500<br>IRVINE, CA 92612-7108   | INTERNATIONAL APPLICATION NO.<br>PCT/US04/43830 |   |
| RECEIVED<br>APR 01 2008  |   | I.A. FILING DATE      PRIORITY DATE<br>12/30/2004      12/31/2003 |
| CONFIRMATION NO. 9928<br>371 ABANDONMENT/TERMINATION<br>LETTER<br> |   |   |

Date Mailed: 03/27/2008

## NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office, in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 03/26/2007, within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

PAULETTE R. KIDWELL

Telephone: (703) 308-9140 EXT 216

page 1 of 1

FORM PCT/DO/EO/905 (371 Abandonment Notice)

# EXHIBIT

## 2

**Country Application**

Matter: 073678-0026

Tuesday, March 25, 2008

Page: 1

Family Number: 073678-0012

SubCase: A002

Country: US United States of America

Client: Kalobios, Inc.

Family Name:

Group Art No.:

Sub Matter:

Client Reference #:

Responsible Atty.: NC

Assigned Atty: AAK

Case Type: PCT

Paralegal: Other MWE Office Contact:

Application Status: Pending

Earliest Priority Date: 31-Dec-2003

Filing Date: 30-Jun-2006

Publication Date:

Issue Date:

Parent/PCT Date : 30-Dec-2004

Parent Issue Date :

Expiration Date:

Patent Term Adjustment: 0

Owner Reference #:

Agent Reference #:

Application Number: 10/585,149

Publication Number:

Patent Number:

Parent/PCT Number: PCT/US2004/043830

Parent Issue Number:

Tax Schedule: LE

Confirmation #:

Owner:

Agent:

App.Title: TRANSACTIVATION SYSTEM FOR MAMMALIAN CELLS

Family Reference: #Error

**Country Application**

Matter: 073678-0026

Tuesday, March 25, 2008

Page: 2

**List Of Actions**

| Action(s) Due               | Due Date    | Due Date | Action Taken |
|-----------------------------|-------------|----------|--------------|
| Information Disclosure Stmt | 30-Sep-2006 | Due Date | 29-Sep-2006  |
| Filing Receipt Yet?         | 30-Dec-2006 | Reminder | 29-Dec-2006  |
| FILING RECEIPT YET?         | 30-Jan-2007 | Reminder | 18-Jan-2007  |
| FILING RECEIPT YET?         | 28-Feb-2007 | Reminder | 28-Feb-2007  |
| FILING RECEIPT YET?         | 28-Mar-2007 | Reminder | 27-Mar-2007  |
| FILING RECEIPT YET?         | 28-Apr-2007 | Reminder | 30-Apr-2007  |
| FILING RECEIPT YET?         | 28-May-2007 | Reminder | 25-May-2007  |
| FILING RECEIPT YET?         | 28-Jun-2007 | Reminder | 27-Jun-2007  |
| FILING RECEIPT YET?         | 28-Jul-2007 | Reminder | 27-Jul-2007  |
| FILING RECEIPT YET?         | 28-Aug-2007 | Reminder | 28-Aug-2007  |
| FILING RECEIPT YET?         | 28-Nov-2007 | Reminder | 27-Nov-2007  |
| Office Action Received?     | 30-Dec-2007 | Reminder | 28-Dec-2007  |
| FILING RECEIPT YET?         | 28-Feb-2008 | Reminder | 27-Feb-2008  |
| FILING RECEIPT YET?         | 28-Apr-2008 | Reminder |              |
| OA RECD YET?                | 30-Jun-2008 | Reminder |              |

**Remarks:**

Nat Phase Appn w/trans, Spec (67 pgs), Claims (5 pgs), Abstract, Drwgs (22 pgs), SE, Decl/POA, Prel Amd, Int'l Sch Rpt, Int'l Publ & \$825 f. 6/30/06 COM; Pstcd w/SN recd 7/15/06; Prel Amd f. 10/12/06 via fax per PB; IDS e-filed 5/22/07; IDS f. 11/2/07 citing EP OA per PB 12/3/07;

Created By: dzambrano

User ID: dzambrano

Date Created: 12-Jul-2006 Last Update: 03-Dec-2007

# EXHIBIT

# 3

|            |  |                      |
|------------|--|----------------------|
| 10/585,149 | Transactivation system for mammalian cells | 03-25-2008::17:53:53 |
|------------|--|----------------------|

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click PDF.

#### Available Documents

| Mail Room Date | Document Code | Document Description                             | Document Category | Page Count |
|----------------|---------------|--|-------------------|------------|
| 03-12-2008     | WFEE          | Fee Worksheet (PTO-06)                           | PROSECUTION       | 1          |
| 03-12-2008     | WCLM          | Claims Worksheet (PTO-2022)                      | PROSECUTION       | 1          |
| 02-28-2008     | STATUS.LET    | Request for status of Application                | PROSECUTION       | 2          |
| 11-02-2007     | IDS.LET       | Information Disclosure Statement Letter          | PROSECUTION       | 2          |
| 11-02-2007     | IDS           | Information Disclosure Statement (IDS)           | PROSECUTION       | 1          |
| 11-02-2007     | IDS           | Filed  | PROSECUTION       | 1          |
| 11-02-2007     | FOR           | Foreign Reference                                | PRIOR ART         | 197        |
| 11-02-2007     | FOR           | Foreign Reference                                | PRIOR ART         | 155        |
| 11-02-2007     | FOR           | Foreign Reference                                | PRIOR ART         | 4          |
| 11-02-2007     | N417          | Status Letter Mailed to Applicant                | PROSECUTION       | 2          |
| 11-02-2007     | IDS           | Information Disclosure Statement (IDS)           | PROSECUTION       | 4          |
| 05-22-2007     | IDS           | Filed  | PRIOR ART         | 10         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 10         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 7          |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 15         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 12         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 6          |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 9          |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 5          |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 10         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 15         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 8          |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 13         |
| 05-22-2007     | NPL           | NPL Documents                                    | PRIOR ART         | 12         |
| 05-22-2007     | NPL           | NPL Document                                     | PRIOR ART         | 13         |
| 05-22-2007     | NPL           | NPL Document                                     | PRIOR ART         | 13         |
| 05-22-2007     | NPL           | NPL Document                                     | PRIOR ART         | 9          |
| 05-22-2007     | NPL           | NPL Documents                                    | PROSECUTION       | 3          |
| 05-22-2007     | N417          | Status Letter Mailed to Applicant                | PROSECUTION       | 3          |
| 10-12-2006     | A.PE          | Preliminary Amendment                            | PROSECUTION       | 11         |
| 10-12-2006     | CLM           | Claims   | PROSECUTION       | 1          |
| 10-12-2006     | REM           | Applicant Arguments/Remarks Made in an Amendment | PROSECUTION       | 1          |
| 06-30-2006     | TRNA          | Transmittal of New Application                   | PROSECUTION       | 4          |
| 06-30-2006     | ABST          | Abstract   | PROSECUTION       | 1          |
| 06-30-2006     | DRW           | Drawings-only black and white line drawings      | PROSECUTION       | 22         |
| 06-30-2006     | SEQLIST       | Sequence Listing                                 | PROSECUTION       | 1          |
| 06-30-2006     | OATH          | Oath or Declaration filed                        | PROSECUTION       | 2          |
| 06-30-2006     | WFEE          | Fee Worksheet (PTO-06)                           | PROSECUTION       | 1          |
| 06-30-2006     | A.PE          | Preliminary Amendment                            | PROSECUTION       | 1          |
| 06-30-2006     | SPEC          | Specification                                    | PROSECUTION       | 1          |
| 06-30-2006     | REM           | Applicant Arguments/Remarks Made in an Amendment | PROSECUTION       | 1          |
| 06-30-2006     | SEQLIST       | Sequence Listing                                 | PROSECUTION       | 12         |
| 06-30-2006     | 371P          | Documents submitted with 371                     | PROSECUTION       | 24         |

|            |          | Applications  |             |    |
|------------|----------|---|-------------|----|
| 06-30-2006 | 371P     | Documents submitted with 371 Applications               | PROSECUTION | 73 |
| 06-30-2006 | 371P     | Documents submitted with 371 Applications               | PROSECUTION | 2  |
| 06-30-2006 | 371P     | Documents submitted with 371 Applications               | PROSECUTION | 3  |
| 06-30-2006 | 371P     | Documents submitted with 371 Applications               | PROSECUTION | 6  |
| 06-30-2006 | 371P     | Applications  | PROSECUTION | 66 |
| 06-30-2006 | SPEC     | Specification   | PROSECUTION | 4  |
| 06-30-2006 | CLM      | Claims  | PROSECUTION | 1  |
| 06-30-2006 | ABST     | Abstract  | PROSECUTION | 67 |
| 06-30-2006 | SPEC     | Specification   | PROSECUTION | 5  |
| 06-30-2006 | CLM      | Claims  | PROSECUTION | 22 |
| 06-30-2006 | DRW      | Drawings-only black and white line drawings             | PROSECUTION | 24 |
| 06-30-2006 | SEQLIST  | Sequence Listing  | PROSECUTION | 1  |
| 06-30-2006 | ABST     | Abstract  | PROSECUTION | 1  |
| 06-30-2006 | P.210.IN | Incoming ISR, 237 & References from IB                  | PROSECUTION | 84 |
| 06-30-2006 | FRPR     | Certified Copy of Foreign Priority Application          | PROSECUTION | 4  |
| 06-30-2006 | P.409.IN | Incoming IPEA/TO - Int'l Prelim Report on Patentability | PROSECUTION | 2  |
| 06-30-2006 | WCLM     | Claims Worksheet (PTO-2022)                             | PROSECUTION | 1  |
| 06-30-2006 | WFEE     | Fee Worksheet (PTO-06)                                  | PROSECUTION | 1  |
| 06-30-2006 | WFEE     | Fee Worksheet (PTO-06)                                  | PROSECUTION |    |

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